IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3383 OF 2002

IN

SUIT NO.3814 OF 2001

Citibank N.A. .. Plaintiff

versus

Mrs Rupa Dhumatkar & ors .. Defendants

Ms Rekha Tawade i.b M.V.Kini for Plaintiff

Mr R.S.Datar for Defendant no.2

Mr Ramesh Jain for Defendant nos.3 & 4

CORAM : D.G. KARNIK, J

DATED : 15th April 2005.

P.C:-

1. Heard learned counsel for the plaintiff and learned counsel for the defendant nos. 2,3 and 4. None present for the defendant no. 1 though served. The only ground urged by the learned counsel for the plaintiff for appointment of a receiver is that the defendant no. 1 is indebted to the plaintiff. In my

view, mere indebtedness, by itself, is not a sufficient ground for appointment of a receiver. Order 40 Rule 1 (2) of the Code of Civil Procedure provides that nothing in this rule shall authorise the Court to remove from the possession or custody of a property any person whom any party to the suit has no a present right so to remove. Learned counsel for the plaintiff is unable to point out any agreement or other provision of law which entitles it to presently dispossess the defendant no.1 through the appointment of a receiver. In the circumstances, no ground for appointment of a receiver is made out. Hence, motion is dismissed.

D.G.KARNIK, J